

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION Nos.13550, 13430, 13437, 13446 AND 13447 OF 2004

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WRIT PETITION NO : 13550 of 2004

Between:

Ananthasetti Sambasiva Rao, s/o Chelamaiah,
r/o Sangamjagarlamudi Village, Tenali Mandal, Guntur District.

..... PETITIONER

AND

- 1 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Abids, Hyderabad.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam,
(Rachuru Group of Temples), Sangamjagarlamudi, Tenali Mandal,
Guntur District.
- 3 The Deputy Commissioner, Endowments Department,
Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of

mandamus declaring the actions of the 1st respondent in issuing the proceeding dt.21-07-2004 in D.Dis.No.MI/35431/2004 and action of the 2nd respondent in issuing notification for open auction of lease hold rights of lands including lands in petitioner's possession vide notification dt.23-07-2004 and consequential auction dt.02-08-2004 at 10.30 A.M. for the years 2004-05 to 2006-07, as wholly arbitrary, illegal, unlawful and unconstitutional and further direct the respondents not to dispossess the petitioner until completion of the lease period.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondent Nos. 1 & 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Smt N.INDRANI

WRIT PETITION NO : 13430 of 2004

Between:

Kongara Mallikarjuna Rao, S/o Lakshminarayana,
R/o Sangamjagarlamudi Village, Tenali Mandal,
Guntur District.

..... PETITIONER

AND

- 1 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Abids, Hyderabad.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam.
(Rachuru Group of Temples), Sangamjagarlamudi, Tenali Mandal,
Guntur District.
- 3 The Deputy Commissioner, Endowments Department, Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the actions of the 1st respondent in issuing the proceeding dt. 21-7-2004 in D.Dis.No. M1/35431/2004 and action of the 2nd respondent in issuing notification for open auction of lease hold rights of lands including lands in petitioner's possession vide notification dt. 23-7-2004 and consequential proposal of auction dt. 2-8-2004 at 10-30 A.M. for the years 2004-2005 to 2006-07, as wholly arbitrary, illegal, unlawful and unconstitutional and further direct the respondents not to dispossess the petitioner until completion of the lease period.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondent Nos.1 & 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: SMT.N.INDRANI

WRIT PETITION NO : 13437 of 2004

Between:

Paladugu Lakshmi Narasaiah, S/o. Sree Ramulu,
R/o. Sangamjagariamudi Village, Tenali Mandal, Guntur District.

..... PETITIONER

AND

- 1 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Abids, Hyderabad.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam,
(Rachuru Group of Temples), Sangamjagarlamudi, Tenali Mandal,
Guntur District.
- 3 The Deputy Commissioner, Endowments Department,
Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the actions of the 1st respondent in issuing the proceeding dt. 21-07-2004 in D.Dis.No.MI/35431/2004 and action of the 2nd respondent in issuing notification for open auction of lease hold rights of lands including lands in petitioner's possession vide notification dt. 23-07-2004 and consequential proposal of auction dt. 02-08-2004 at 10-30 AM for the years 2004-05 to 2006-07, as wholly arbitrary, illegal, unlawful and unconstitutional and further direct the respondents not to dispossess the petitioner until completion of the lease period.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondent Nos.1 & 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Smt N.INDRANI

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WRIT PETITION NO : 13446 of 2004

Between:

Kesamsetti Sivanageswara Rao, S/o. Raghavaiah
R/o. Sangamjagariamudi Vill, Tenali Mandal, Guntur District.

..... PETITIONER

AND

- 1 The Commissioner of Endowments, Govt of A.P., Tilak Road, Abids, Hyd.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam,
(Rachuru Group of Temples), Sangamjagariamudi, Tenali Mandal, Guntur Dist.
- 3 The Dy. Commissioner Endowments Dept., Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in issuing the proceeding Dt. 21.07.2004 in D.Dis.No.MI/35431/2004 and action of the 2nd respondent in issuing notification for open auction of lease hold rights of lands including lands in petitioner's possession vide notification dt. 23.7.2004 and consequential proposal of auction dt. 02.08.2004 at 10-30 AM for the years 2004-05 to 2006-07, as wholly arbitrary, illegal, unlawful and unconstitutional and further direct the respondents not to dispossess the petitioner until completion of the lease period.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondent Nos.1 & 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: SMT N.INDRANI

WRIT PETITION NO : 13447 of 2004

Between:

Uppe Srirama Murthy, S/o Sangaiah,
R/o Sangam Jagarlamudi Village, Tenali Mandal,
Guntur District.

..... PETITIONER

AND

- 1 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Abids, Hyderabad.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam,
(Rachuru Group of Temples), Sangamjagarlamudi, Tenali mandal,
Guntur District.
- 3 The Deputy Commissioner, Endowments Department, Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the actions of the 1st respondent in issuing the proceeding dt. 21-7-2004 in D.Dis.No. M1/35431/2004 and action of the 2nd respondent in issuing notification for open auction of lease hold rights of lands including lands in petitioner's possession vide notification dt. 23-7-2004 and consequential proposal of auction dt. 2-8-2004 at 10.30 A.M. for the year 2004-05 to 2006-07, as wholly arbitrary, illegal, unlawful and unconstitutional and further direct the respondents not to dispossess the petitioner until completion of the lease period.

Counsel for the Petitioner:MR.CH.RAVINDRA BABU

Counsel for the Respondent Nos.1 & 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: SMT.N.INDRANI

The Court at the stage of admission made the following COMMON ORDER:

The petitioners in these writ petitions are the lessees in respect of different extents of land belonging to the second respondent-Sri Sangameswara Swami vari Devasthanam (Rachuru Group of Temples), Sangamjagarlamudi, Tenali Mandal, Guntur District. The petitioners have participated in the auction conducted by the temple in the year 2002 and they were the highest bidders in respect of the leasehold rights for a period of three years from 2003-2004 to 2005-2006. In pursuance thereof, the possession of the lands in question was delivered to them. They state that though they paid the necessary maktha for sometime, subsequently, they incurred several debts due to severe drought and consequently, the arrears of maktha could not be paid. However, the petitioners are willing to clear all the arrears and to continue the agricultural operations. In the meanwhile, the impugned orders have been passed by the first respondent-Commissioner, Endowments Department, on 21-07-2004 stating that the lease in favour of the petitioners shall stand cancelled and the second respondent-Executive Officer was permitted to conduct public auction in respect of the leasehold rights of the lands in question. Aggrieved by the same, these writ petitions are filed.

The learned counsel for the petitioners submits that the default on the part of the petitioners in payment of the lease amount was only due to severe drought conditions that were prevailing in the State and the petitioners are making all sincere efforts to clear the entire arrears at the earliest possible time. He contends that the orders of cancellation without affording any opportunity to the petitioners to explain

their case are arbitrary and illegal. He also submits that all the petitioners have already commenced the agricultural operations and there are standing crops on the lands in question and at this juncture, if they are dispossessed, they will be put to irretrievable injury.

On behalf of the second respondent-temple, counter-affidavit has been filed stating that the petitioners failed to comply with the auction conditions and they failed to deposit 1/3rd of the auction amount as required under the auction conditions in spite of the notices issued by the temple and therefore, the temple sent a report to the third respondent-Deputy Commissioner of Endowments, with regard to the non-compliance of the auction conditions by the petitioners. In turn, the third respondent sent a report to the first respondent-Commissioner of Endowments and after verifying the records and report submitted by the temple, the first respondent passed the impugned orders dated 21-07-2004 cancelling the lease granted in favour of the petitioners.

It is no doubt true that the petitioners have admitted the default on their part in making the deposits in compliance with the auction conditions. However, the fact remains that the orders of cancellation were passed without affording any opportunity to them to explain their case.

Having regard to the facts and circumstances and keeping in view the plea taken by the petitioners that they could not make the necessary payments due to the drought conditions that were prevailing in the State and also the submissions made by the learned counsel for the petitioners that if a reasonable time is granted, the petitioners are prepared to pay the entire amount due, I am of the view that the matter requires reconsideration by the first respondent. Accordingly, the impugned orders dated 21-07-2004 are set aside. The petitioners are granted leave and liberty to make their representations before the first respondent within three weeks from today with regard to the payment of the arrears. If such representations are made within a period of three weeks from today, the first respondent shall consider the same and pass appropriate orders in accordance with law. Till such orders are passed, the petitioners shall not be dispossessed from the lands in question and no steps shall be taken for putting the leasehold rights of the lands in question to auction.

All the writ petitions are accordingly disposed of. No costs.

17th AUGUST, 2004.

Note: furnish c.c. in three days.

B/o

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To

- 1 The Commissioner of Endowments, Government of Andhra Pradesh, Tilak Road, Abids, Hyderabad.
- 2 The Executive Officer, Sri Sangameswara Swamivari Devasthanam, (Rachuru Group of Temples), Sangamjagarlamudi, Tenali Mandal, Guntur District.
- 3 The Deputy Commissioner, Endowments Department, Guntur District.
- 4 Two CCs to the Government Pleader for Endowments, A.P.High Court Buildings, Hyderabad.
- 5 Two CD copies.